

1994—Subsec. (b)(2). Pub. L. 103-429 substituted “chapter 53 of title 49” for “the Federal Transit Act”.

#### EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

#### DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION

Pub. L. 105-178, title I, § 1108(f), June 9, 1998, 112 Stat. 141, provided that:

“(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2003 may be obligated on roads functionally classified as minor collectors.

“(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.”

#### ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS

Pub. L. 105-178, title I, § 1108(g), June 9, 1998, 112 Stat. 141, provided that: “The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 105, 106, 126, 149, 157, 160, 322 of this title.

### § 134. Metropolitan planning

#### (a) GENERAL REQUIREMENTS.—

(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appro-

priate, based on the complexity of the transportation problems to be addressed.

#### (b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

(C) appropriate State officials.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

(A) develop plans and programs for adoption by a metropolitan planning organization; and

(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

#### (5) REDESIGNATION.—

(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000,

or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (b)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(d) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United

States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) LAKE TAHOE REGION.—

(A) DEFINITION.—In this paragraph, the term “Lake Tahoe region” has the meaning given the term “region” in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section, section 135, and chapter 53 of title 49.

(C) INTERSTATE COMPACT.—

(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

(4) RECIPIENTS OF OTHER ASSISTANCE.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

(A) by recipients of assistance under chapter 53 of title 49; and

(B) by governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services.

(e) COORDINATION OF MPOs.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

(2) PROJECT LOCATED IN MULTIPLE MPOs.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

(f) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

(C) increase the accessibility and mobility options available to people and for freight;

(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(F) promote efficient system management and operation; and

(G) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area in accordance with the requirements of this subsection.

(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) An identification of transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long-range transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

(B) A financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(C) Assess capital investment and other measures necessary to—

(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(D) Indicate as appropriate proposed transportation enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in non-attainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan, in a manner that the Secretary deems appropriate.

(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

(i) published or otherwise made readily available for public review; and

(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).

(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—The transportation improvement program shall include—

(A) a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

(B) a financial plan that—

(i) demonstrates how the transportation improvement program can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS CHAPTER AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

(B) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program—

(i) by—

(I) in the case of projects under this chapter, the State; and

(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

(7) PUBLICATION.—

(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAMS.—A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) DESIGNATION.—

(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such

time as the metropolitan planning organization is certified by the Secretary.

(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(k) TRANSFER OF FUNDS.—Funds made available for a highway project under chapter 53 of title 49 shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of chapter 53 of title 49. The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of chapter 53 of title 49 regarding non-Federal share shall apply to chapter 53 funds used for highway projects.

(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is part of an approved congestion management system.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organiza-

tion the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

(n) FUNDING.—

(1) IN GENERAL.—Funds set aside under section 104(f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.

(o) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Added Pub. L. 87-866, §9(a), Oct. 23, 1962, 76 Stat. 1148; amended Pub. L. 91-605, title I, §143, Dec. 31, 1970, 84 Stat. 1737; Pub. L. 95-599, title I, §169, Nov. 6, 1978, 92 Stat. 2723; Pub. L. 102-240, title I, §1024(a), Dec. 18, 1991, 105 Stat. 1955; Pub. L. 102-388, title V, §502(b), Oct. 6, 1992, 106 Stat. 1566; Pub. L. 103-429, §3(5), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104-59, title III, §317, Nov. 28, 1995, 109 Stat. 588; Pub. L. 105-178, title I, §1203(a)-(m), (o), June 9, 1998, 112 Stat. 170-179; Pub. L. 105-206, title IX, §9003(c), July 22, 1998, 112 Stat. 839.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b)(3), probably means the date of enactment of Pub. L. 102-240, which amended this section generally and which was approved Dec. 18, 1991.

The Clean Air Act, referred to in subsecs. (b)(5)(B), (c)(3), (4)(D), (e)(1), (g)(3), (j)(2), and (l)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (c)(3), (4), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

Public Law 96-551, referred to in subsec. (d)(3)(A), is Pub. L. 96-551, Dec. 19, 1980, 94 Stat. 3233, which is not classified to the Code.

The Federal-Aid Highway Act of 1991, referred to in subsec. (k), was not enacted into law. However, provisions referred to as the Federal-Aid Highway Act of 1991 were contained in several bills and are similar to those appearing in part A of title I of Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914, which Act is known as the Intermodal Surface Transportation Efficiency Act of 1991. For classification of that Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (o), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to

chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178, §1203(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.”

Subsec. (b)(1), (2). Pub. L. 105-178, §1203(b)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

“(2) MEMBERSHIP OF CERTAIN MPO’S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.”

Subsec. (b)(4). Pub. L. 105-178, §1203(b)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: “Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.”

Subsec. (b)(5)(A). Pub. L. 105-178, §1203(b)(3), substituted “agreement between the Governor” for “agreement among the Governor” and “government that together represent” for “government which together represent”.

Subsec. (b)(6). Pub. L. 105-178, §1203(b)(4), amended heading and text of par. (6) generally. Prior to amendment, text read as follows: “More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.”

Subsec. (c). Pub. L. 105-178, §1203(c), inserted “Planning” before “Area” in subsec. heading, designated

first sentence as par. (1), inserted par. heading, and inserted “planning” before “area”, added pars. (2) to (4), realigned margins, and struck out at end “Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.”

Subsec. (d). Pub. L. 105-178, §1203(d), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

“(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.”

Subsec. (e). Pub. L. 105-178, §1203(e), substituted “MPOs” for “MPO’s” in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, added par. (2), and realigned margins.

Subsec. (f). Pub. L. 105-178, §1203(f), amended heading and text of subsec. (f) generally, substituting provisions relating to scope of planning process for provisions relating to factors to be considered in developing transportation plans and programs.

Subsec. (g). Pub. L. 105-178, §1203(g)(6), substituted “Long-Range Transportation Plan” for “Long Range Plan” in heading.

Subsec. (g)(1). Pub. L. 105-178, §1203(g)(8), substituted “long-range transportation plan” for “long range plan”.

Subsec. (g)(2). Pub. L. 105-178, §1203(g)(1), (7), (8), substituted “Long-range transportation plan” for “Long range plan” in heading and substituted “long-range transportation plan” for “long range plan” and “contain, at a minimum, the following” for “., at a minimum” in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 105-178, §1203(g)(2), (8), substituted “An identification of” for “Identify” and “long-range transportation plan” for “long range plan”.

Subsec. (g)(2)(B). Pub. L. 105-178, §1203(g)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: “Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.”

Subsec. (g)(3). Pub. L. 105-178, §1203(g)(8), substituted “long-range transportation plan” for “long range plan”.

Subsec. (g)(4). Pub. L. 105-178, §1203(g)(4), (8), substituted “long-range transportation plan” for “long range plan” in two places and inserted “freight shippers, providers of freight transportation services,” after “transportation agency employees,” and “representatives of users of public transit,” after “private providers of transportation.”.

Subsec. (g)(5). Pub. L. 105-178, §1203(g)(7), (8), substituted “long-range transportation plan” for “long range plan” in heading and in introductory provisions.

Subsec. (g)(6). Pub. L. 105-178, §1203(g)(5), added par. (6).

Subsec. (h). Pub. L. 105-178, §1203(h), amended heading and text of subsec. (h) generally. Prior to amendment, text related to transportation improvement program, providing for development of program, priority and selection of projects, major capital investments, requirement of inclusion of projects within area proposed for funding, and provision of reasonable notice and opportunity to comment for interested citizens.

Subsec. (h)(5)(A). Pub. L. 105-178, §1203(o), as added by Pub. L. 105-206, §9003(c), struck out "for implementation" after "federally funded projects" in introductory provisions.

Subsec. (i)(1). Pub. L. 105-178, §1203(i)(1), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551."

Subsec. (i)(4). Pub. L. 105-178, §1203(i)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: "All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to chapter 53 of title 49 shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area."

Subsec. (i)(5). Pub. L. 105-178, §1203(i)(3), reenacted heading without change and amended text of par. (5) generally. Prior to amendment, text read as follows: "The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49 shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for de-

termining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49."

Subsec. (j). Pub. L. 105-178, §1203(j), reenacted heading without change and amended text of subsec. (j) generally. Prior to amendment, text read as follows: "For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in non-attainment for ozone or carbon monoxide under the Clean Air Act."

Subsec. (l). Pub. L. 105-178, §1203(k), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (n). Pub. L. 105-178, §1203(l), amended heading and text of subsec. (n) generally. Prior to amendment, text read as follows: "Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135."

Subsec. (o). Pub. L. 105-178, §1203(m), added subsec. (o).

1995—Subsec. (f)(16). Pub. L. 104-59 added par. (16).

1994—Subsecs. (h)(5), (i)(3), (4). Pub. L. 103-429, §3(5)(A), substituted "chapter 53 of title 49" for "the Federal Transit Act".

Subsec. (i)(5). Pub. L. 103-429, §3(5)(B), substituted "section 5336 of title 49" for "section 9 of the Federal Transit Act" in two places and "section 5306(a) of title 49" for "section 8(o) of the Federal Transit Act".

Subsec. (k). Pub. L. 103-429, §3(5)(C), (D), substituted "chapter 53 of title 49" for "the Federal Transit Act" wherever appearing and "chapter 53 funds" for "Federal Transit Act funds".

Subsecs. (l), (m). Pub. L. 103-429, §3(5)(C), substituted "chapter 53 of title 49" for "the Federal Transit Act".

1992—Subsec. (k). Pub. L. 102-388 inserted at end "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects."

1991—Pub. L. 102-240 substituted section catchline for one which read: "Transportation planning in certain urban areas" and amended text generally, substituting present provisions for provisions relating to transportation planning in certain urban areas, including provisions stating transportation objectives, requiring continuing comprehensive planning process by States and local communities, and relating to redesignation of metropolitan planning organizations, designation of contiguous interstate areas as critical transportation regions and corridors, establishment of planning bodies for such regions and corridors, and authorization of appropriations.

1978—Subsec. (a). Pub. L. 95-599, §169(a), inserted provisions related to cooperation with local officials and specific considerations in the planning process.

Subsecs. (b), (c). Pub. L. 95-599, §169(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1970—Pub. L. 91-605 designated existing provisions as subsec. (a), inserted provision prohibiting a highway construction project in any urban area of 50,000 or more population unless responsible public officials of such area have been consulted and their views considered with respect to the corridor, the location, and the design of the project, and added subsec. (b).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before



July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### DEMONSTRATION PROJECT FOR RESTRICTED ACCESS TO CENTRAL BUSINESS DISTRICT OF METROPOLITAN AREAS

Section 155 of Pub. L. 95-599 authorized Secretary of Transportation to carry out a demonstration project in a metropolitan area respecting the restriction of access of motor vehicles to the central business district during peak hours of traffic, authorized the necessary appropriations, and required progress reports and a final report and recommendations not later than three years after Nov. 6, 1978.

#### REDUCTION OF URBAN BLIGHT ADJACENT TO FEDERAL-AID PRIMARY AND INTERSTATE HIGHWAYS LOCATED IN CENTRAL BUSINESS DISTRICTS

Section 159 of Pub. L. 95-599 directed Secretary to conduct a study and submit a report to Congress not later than two years after Nov. 6, 1978, respecting the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts.

#### URBAN SYSTEM STUDY

Pub. L. 94-280, title I, §149, May 5, 1976, 90 Stat. 447, directed Secretary of Transportation to conduct a study of the factors involved in planning, selection, etc., of Federal-aid urban system routes including an analysis of organizations carrying out the planning process, the status of jurisdiction over roads, programing responsibilities under local and State laws, and authority of local units, such study to be submitted to Congress within six months of May 5, 1976.

#### FRINGE PARKING DEMONSTRATION PROJECTS

Pub. L. 90-495, §11, Aug. 23, 1968, 82 Stat. 820, authorized Secretary to approve construction of publicly owned parking facilities under this title until June 30, 1971, as a demonstration project, authorized the Federal share of any project under this section to be 50%, prevented approval of projects by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility, defined "parking facilities", permitted a State or political subdivision to contract for the operation of such facility, prohibited approval of the project by the Secretary unless it is carried on in accordance with section 134 of this title (this section), and required annual reports to Congress on the demonstration projects approved under this section, prior to repeal by Pub. L. 91-605, title I, §134(c), Dec. 31, 1970, 84 Stat. 1734. See section 137 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 115, 133, 135, 137, 142, 149, 182, 204, 217, 505 of this title; title 42 sections 7504, 7506; title 49 sections 5303, 5305.

### § 135. Statewide planning

#### (a) GENERAL REQUIREMENTS.—

(1) FINDINGS.—It is in the national interest to encourage and promote the safe and effi-

cient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title and sections 5303 through 5305 of title 49 for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

#### (c) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a transportation planning process that provides for consideration of projects and strategies that will—

(A) support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

(C) increase the accessibility and mobility options available to people and for freight;

(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(F) promote efficient system management and operation; and

(G) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation